

**BEFORE THE TENNESSEE REGULATORY AUTHORITY**

**NASHVILLE, TENNESSEE**

**February 16, 2000**

<b>IN RE:</b>	)	
	)	
<b>APPLICATION OF RCN TELECOM SERVICES,</b>	)	<b>DOCKET NO. 99-00862</b>
<b>INC. (FORMERLY RCN TELECOM SERVICES</b>	)	
<b>OF PENNSYLVANIA, INC.), RCN TELECOM</b>	)	
<b>SERVICES, INC. AND RCN LONG DISTANCE</b>	)	
<b>COMPANY FOR AUTHORITY TO MERGE AND</b>	)	
<b>TO TRANSFER LICENSES AS PART OF A <i>PRO</i></b>	)	
<b><i>FORMA</i> CORPORATE RESTRUCTURING</b>	)	

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**ORDER APPROVING MERGER AND TRANSFER OF LICENSES**

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This matter came before the Tennessee Regulatory Authority ("Authority") on the joint application ("Joint Application") of RCN Telecom Services, Inc. (Formerly RCN Telecom Services of Pennsylvania, Inc., hereafter "RCN PA"), RCN Telecom Services, Inc. ("RCN TS") and RCN Long Distance Company ("RCN LD") (collectively the "Applicants"). The Joint Application was filed pursuant to Tenn. Code Ann. § 65-4-113(a) and seeks to merge RCN TS and RCN LD with and into RCN PA and to assign RCN LD's Certificate of Public Convenience and Necessity to RCN PA. As part of this *pro forma* corporate restructuring, RCN TS and RCN LD, along with certain other affiliated RCN subsidiaries operating in other states will be merged with and into RCN PA (the "Restructuring").

The Directors of the Authority considered this matter at a regularly scheduled Authority Conference held on November 23, 1999. From the Application and the record existing in this matter, the Authority has determined the following:

1. RCN Corporation is a publicly held Delaware corporation that is headquartered at 105 Carnegie Center, Princeton, New Jersey 08540. RCN Corporation is the ultimate corporate parent of the RCN subsidiaries, including the Applicants. In the state of Tennessee, RCN LD is authorized to provide intrastate interexchange and/or operator assisted telecommunications services. RCN LD was granted certification in Tennessee by the Tennessee Public Service Commission ("TPSC") on November 10, 1995 in Docket No. 95-03326.<sup>1</sup>

2. The proposed Restructuring will take place as a merger of RCN LD into RCN PA. RCN PA will assume RCN LD's certification and operations. As a result, RCN LD and the other affiliated sister companies will cease to exist as corporate entities and RCN PA will hold the certificates previously held by the respective RCN companies. RCN Corporation will remain the ultimate corporate parent of the remaining RCN subsidiaries.

## **I. CRITERIA FOR APPROVING TRANSFER**

A transfer of authority to provide utility services cannot occur until the regulated public utility first obtains approval of such transfer by the Authority. The Directors of the Authority must approve the transfer pursuant to the requirements set forth under Tenn. Code Ann. § 65-4-113. This Section, in pertinent part, provides for the following:

- (a) **No public utility, as defined in § 65-4-101, shall transfer all or any part of its authority to provide utility services, derived from its certificate of public convenience and necessity issued by the authority, to any individual, partnership, corporation or other entity without first obtaining the approval of the authority.**

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<sup>1</sup> This grant of authority was given to Commonwealth Long Distance Company ("CLD"). By letter dated March 7, 1997, CLD notified the Authority of a name change and corporate restructuring which resulted in the establishment of RCN LD.

(b) Upon petition for approval of the transfer of authority to provide utility services, the authority shall take into consideration all relevant factors, including, but not limited to, the suitability, the financial responsibility, and capability of the proposed transferee to perform efficiently the utility services to be transferred and the benefit to the consuming public to be gained from the transfer. The authority shall approve the transfer after consideration of all relevant factors and upon finding that such transfer furthers the public interest.

(c) **Following approval of the transfer pursuant to this section, the transferee shall be granted full authority to provide the transferred services subject to the continuing regulation of the authority. The transferor shall no longer have any authority to provide the transferred services,** but shall retain authority to provide other services, if any are retained, which were not included in such transfer. (Emphasis supplied).

## II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

After consideration of the entire record in this matter, including the Application, the Directors find and conclude as follows:

1. That RCN LD has been engaged in the business of providing telecommunications services within the State of Tennessee pursuant to certification granted in TPSC Docket No. 95-03326.

2. That the Authority has jurisdiction over the subject matter of this Joint Application pursuant to Tenn. Code Ann. § 65-4-113.

3. That the transfer of RCN LD's Certificate of Public Convenience and Necessity in Tennessee to its corporate parent company RCN PA, is part of a *pro forma* internal corporate reorganization.

4. The transaction will be transparent to RCN LD's customers in Tennessee. All of RCN LD's customers will be served by the same team of qualified consumer representatives and will be provided service pursuant to contracts and tariff that offer all of the

services currently offered by RCN LD, at the same rates, terms and conditions. The Restructuring will be made in a seamless fashion that will not adversely affect the provision of telecommunications services in Tennessee.

5. That RCN PA will have the same personnel as RCN LD, and through the financial resources of RCN PA, will have the financial, technical, and managerial resources to provide telecommunications service in the State of Tennessee.

6. That RCN PA will adopt in its tariff all of its subsidiaries services at the same rates, terms, and conditions as currently available, which will enhance the appearance of transparency to RCN LD's Tennessee customers.

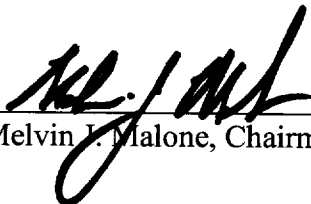
7. According to the Joint Application, consummation of the proposed organization will promote operational and administrative efficiencies for the RCN companies. These efficiencies will enable the Company to more effectively compete in the telecommunications market, which will ultimately benefit consumers in Tennessee.

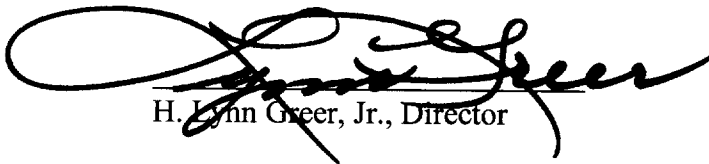
8. That based upon the above-described reorganization, the transfer of RCN LD's Certificate of Public Convenience and Necessity to RCN PA is compatible with the public interest.

**IT IS THEREFORE ORDERED THAT:**

1. The Joint Application of RCN Telecom Services, Inc. (formerly RCN Telecom Services of Pennsylvania, Inc.), RCN Telecom Services, Inc. and RCN Long Distance Company is granted.

2. Any party aggrieved by the Authority's decision in this matter may file a Petition for Reconsideration with the Authority within ten (10) days from and after the date of this Order.

  
Melvin J. Malone, Chairman

  
H. Lynn Greer, Jr., Director

  
Sara Kyle, Director

ATTEST:

  
K. David Waddell, Executive Secretary